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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/511,948	10/21/2004	Wolfgang Kratzenberg	DT-6897	8679
36377	7590	07/18/2008		
DAVID TOREN, ESQ. ABELMAN FRAYNE & SCHWAB 666 THIRD AVENUE NEW YORK, NY 10017-5621			EXAMINER GOLDMAN, MICHAEL H	
			ART UNIT 3688	PAPER NUMBER
			MAIL DATE 07/18/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/511,948

**Applicant(s)**

KRATZENBERG ET AL.

**Examiner**

MICHAEL H. GOLDMAN

**Art Unit**

3688

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 May 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 17-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 17-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SE-US)  
Paper No(s)/Mail Date 5-30-2008
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Response to Amendment*

1. The following is a Final Office Action in response to communications received May 30, 2008. Claims 1-16 have been cancelled. Claims 17-27 have been added. Therefore, claims 17-27 are pending and addressed below.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
  2. Ascertaining the differences between the prior art and the claims at issue.
  3. Resolving the level of ordinary skill in the pertinent art.
  4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
3. Claims 17-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barnes, Jr. (US 2003/0065805) in view of Hind et al (US 2003/0174025).

Claim 17 and 20: Barnes discloses a system for use in a facility, such as a shopping center, for presenting advertising messages on a plurality of information carriers ("fixed

presentation devices") located throughout the facility (page 25, paragraph 0261).

Barnes further discloses that the advertisement is selected based on a signal received from the user device uniquely identifying the user/user device (page 10, paragraph 0101; page 22, paragraph 0227 - page 23, paragraph 0237; page 25, paragraph 0261; and page 28, paragraph 0290), the signal activating the information carrier (page 2, paragraph 0032 and page 26, paragraph 0264). Barnes also discloses that the user device is uniquely identified (page 10, paragraphs 0104 - 0109). Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made for Barnes to reset the shopping (transport) cart device to reflect the user's unique identifying information. One would have been motivated to reset the shopping cart device in order to assure the targeted advertisements are directed to the correct user. While Barnes does not explicitly disclose that the user device is mounted on a shopping cart, Hind discloses a similar system for presenting targeting advertising to shoppers in a shopping center (page 2, paragraph 0022) in which the user device (RFID tag) is mounted on a shopping cart (page 3, paragraphs 0030). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made for Barnes to use a similar shopping cart mounted device each shopping cart having a unique signal emitter. One would have been motivated to use a device mounted on the user's shopping cart, and also arrange a unique emitter on each shopping cart, in order to provide a discrete identity signal for each transport cart (shopping cart) in order to provide for a plurality of benefits, one benefit being inventory and location of the carts, another benefit being coordination of media display with location of a cart.

Claims 18, 19 and 22-24: Barnes and Hind disclose a system as in Claim 17 above, and Barnes discloses the fixed presentation devices are activated when the user approaches them. While not specifically stated, this implies that the fixed presentation devices can be switched on and off (i.e. activated, de-activated) multiple times throughout the business hours of the facility depending on user traffic in its vicinity. Furthermore, it would have been obvious to one having ordinary skill in the art at the time the invention was made that the fixed presentation devices could be switched -on for selectable lengths of time, programmed for counting and storing the number of activation signal received per unit of time, pre-programmed for advertising displays of one or more default advertisements with pre-determined frequencies could be set, or programmed to suppress repetition of specific advertising display(s), and/or programmed to prevent displays from being activated by the remainder of the plurality of signal emitters subsequent to the first signal emitter being triggered. These would be design options from which the system designer could choose when setting up the system or changed later as so desired. It would be most likely that the system designer would use both options, e.g. present default advertisements during business hours and suppress presentation devices in accordance with design preferences.

Claim 21: Barnes and Hind disclose a system as in Claim 20 above, and Barnes further discloses the information carriers (fixed presentation devices) are equipped with a device for querying the data of the shopping carts (page 25, paragraph 0261).

Claim 25: Barnes and Hind disclose a system as in Claim 17 above, and Barnes further discloses providing the advertisements using a wireless remote control system (page 4, paragraphs 0041-0053; page 10, paragraph 0101; page 17, paragraph 0169; and page 30, paragraph 0299).

Claim 26: Barnes and Hind disclose a system as in Claim 17 above, and Barnes further discloses a centralized system with a plurality of fixed presentation devices connected to the central system (page 23, paragraph 0236), also see abstract, lines 1-7 whereby a system, apparatus and computer program product provide the functions of storage and communication of media content including mobile e-commerce.

Claim 27: Barnes and Hind disclose a system as in Claim 17 above, and Barnes further discloses collecting statistical data from each of the fixed presentation devices (page 24, paragraph 0246 and page 25, paragraph 0257).

Claim 28: Barnes discloses the central server (super ordinate management computer) is associated with an optional number of systems/fixed presentation devices ("up to 255 parked slaves") (page 4, paragraph 0052), also see abstract, lines 1-7 whereby a system, apparatus and computer program product provide the functions of storage and communication of media content including mobile e-commerce.

***Response to Arguments***

4. Applicant's arguments filed May 30, 2008 have been fully considered but they are not persuasive.

Applicant argues "Barnes and Hind references do not disclose or suggest every element, step or feature of the present invention". Examiner respectfully disagrees, the combination of Barnes and Hind teach the key elements of a system of transport carts each capable of unique identifiers able to communicate with local transceivers throughout a retail establishment. The specifics of what advertising display(s) and when to display said advertising is a matter of system designer preferences. Examiner further infers that the system *designer preferences* for transport cart hardware may include RFID devices alone, to achieve the simplification of transport cart hardware.

***Conclusion***

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL H. GOLDMAN whose telephone number is (571)270-5101. The examiner can normally be reached on Monday thru Thursday 6:00am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Myhre can be reached on 571-272-6722. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

mhg  
July 15, 2008

/James W Myhre/  
Supervisory Patent Examiner, Art Unit 3688



